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OFFICE OF PETITIONS

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In re Application of
Inagaki, et al.
Application No. 09/253,048
Filed: February 19, 1999
Attorney Docket No. 9792909-4094

DECISION ON PETITION

This is a decision on the petition filed October 16, 2001, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to timely file a proper reply to the final Office action mailed April 10, 2001, which set a shortened statutory period for reply of three (3) months. Petitioner obtained a two (2) month extension of time and replied with an Amendment on August 29, 2001. However, by Advisory Action mailed September 13, 2001, the examiner informed petitioner that the Amendment would not be entered. No further replies having been received, the above-identified application became abandoned on September 11, 2001.¹ The instant petition precedes the mailing of a Notice of Abandonment.

With the instant petition, the petitioner filed a request for a continued prosecution application (CPA) of the above-identified application under 37 CFR 1.53(d), and met all other requirements for a grantable petition under 37 CFR 1.137(b). The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the CPA, filed October 16, 2001.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$530.00 fee (to further the extension of time from two to three months) submitted with the petition on October 16, 2001 was subsequent to the maximum period obtainable for reply (October 10, 2001), this fee has been refunded.

The application file is being forwarded to Technology Center 1700 for processing of the CPA.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
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for Patent Examination Policy

¹ Petitioner did file a supplement to his August 29th Amendment on September 17, 2001 (Certificate of Mailing dated September 13, 2001). However, because this was submitted outside of the two month extension of time, it was not entered.